



BRILL

Medieval Encounters 16 (2010) 243-267

Medieval
Jewish, Christian and Muslim Culture
Encounters
in Confluence and Dialogue

brill.nl/me

The Jew in the Text: What Christian Charters Tell Us About Medieval Jewish Society

Jonathan Ray*

Department of Theology, Georgetown University, Washington, DC 20057-1135, USA

**E-mail: jsr46@georgetown.edu*

Abstract

This paper will explore the viability and limits of using non-Jewish charters for the reconstruction of medieval Jewish history. While the settlement charters have long been recognized as important sources for institutional history, their value to the understanding of the Jewish community has yet to be fully explored. Analysis of these documents has traditionally been limited to determining the level of royal protection of Jewish rights or the nature of Jewish-Christian relations. These charters were, in large part, products of Jewish requests. In locating the voice of the Jewish petitioner within these charters it becomes possible to discern the priorities, needs and fears of the medieval Jewish community. Furthermore, these documents also suggest ways in which Jews used Christian secular authority as an instrument for the establishment of political structures internal to their communities.

Keywords

Charters, historiography, Jews, Jewish-Christian Relations, Spain, Germany, merchants, self-government

Scholarly interest in Jewish interaction with medieval Christian society has grown steadily in recent years, and has been particularly notable in academic conferences and university courses dedicated to the history and culture of medieval Iberia. At times, however, willingness to incorporate Jewish themes into the field of medieval studies has been hindered by an uncertainty as to how, exactly, this goal is to be accomplished. For those studying intellectual culture, the role of the Jews in the advancement of philosophy and belles-lettres and their participation in theological debates has long been recognized as an undeniable and significant contribution. But for students of social and institutional history looking to flesh out a

portrait of medieval Jewish communities rather than of philosophical or theological trends, the situation can be considerably more daunting. In such cases, the end result is often a discussion of the relative autonomy of medieval Jews and their socio-political status that leans heavily upon Christian motives, rather than Jewish agency.¹ Indeed, the discourse on Jewish status and its ostensible decline during the high Middle Ages is at the very heart of the dispute over whether or not Europe devolved into a “persecuting society.”² It should be noted, however, that there is more to be learned about the Jews from the legal texts and charters of medieval Europe than the rise and fall of Christian tolerance toward their recipients. To be sure, these texts do hold important information regarding the declaration and delineation of Jewish rights. Yet, medieval charters also provide us with a glance, however blurred and incomplete, at some of the needs and concerns of medieval Jews themselves as they worked to establish and maintain their communities within Christian society. This article is intended to offer a brief analysis of the laws concerning the Jews of medieval Europe as contained in these charters. In doing so, I hope to demonstrate the potential of non-Jewish sources for the reconstruction of medieval Jewish history, and suggest how one might use medieval charters as a way to integrate the Jewish experience into courses in medieval studies.³

¹ There have been a number of studies on this debate, often turning on the question of Jewish “serfdom.” See Salo Baron, “Medieval Nationalism and Jewish Serfdom,” in *Ancient and Medieval Jewish History*, ed. Louis Feldman (New Brunswick, NJ: Rutgers University Press, 1972), 308–332; ed. Gavin Langmuir, “Judei Nostri’ and the Beginning of Capetian Legislation,” and “‘Tamquam Servi’: The Change in Jewish Status in French Law about 1200,” in *Toward a Definition of Antisemitism*, Gavin Langmuir, ed. (Berkeley, CA: University of California Press, 1990), 137–166, and 167–194; and Norman Roth, “The Civic Status of the Jew in Medieval Spain,” in *Iberia and the Mediterranean World of the Middle Ages*, vol. 2, eds P.E. Chevedden, D.J. Kagay and P.G. Padilla (Leiden: Brill, 1996), 139–161.

² R.I. Moore, *Formation of A Persecuting Society: Power and Deviance in Western Europe: 950–1250* (New York, NY: Blackwell, 1987). A cogent response, with particular reference to Jews, is found in David Nirenberg, *Communities of Violence: Persecution of Minorities in the Middle Ages* (Princeton, NJ: Princeton University Press, 1996).

³ Many of these charters are now readily available in English translation, and can be found in the following compilations: Amnon Linder, *The Jews in the Legal Sources of the Early Middle Ages* (Detroit, MI: Wayne State University Press, 1997); Bernard S. Bachrach *Jews in Barbarian Europe* (Lawrence, KS: Coronado, 1977); Robert Chazan, *Church, State, and Jew in the Middle Ages* (New York, NY: Behrman House, 1980); and James F. Powers, *The Code of Cuenca* (Philadelphia, PA: University of Pennsylvania Press, 2000), particularly

Before discussing Jewish life as reflected in medieval charters it seems worthwhile to take a moment to expand upon the importance of this endeavour. As noted above, a better understanding of these texts will help to integrate the Jews into our panorama of medieval European society. By imagining these charters as products of bilateral negotiations, we are not only granting a greater degree of agency to a group that medievalists have traditionally defined by its marginality and alterity, we are also helping to challenge longstanding assumptions of Jewish historians as well. Echoing the general rejection of the so-called “Dark Ages” popular among nineteenth-century historians, the founders of modern Jewish Studies promoted a concept of Jewish identity that juxtaposed medieval “backwardness” and modern “enlightenment.” Later, Zionist historians extended this metaphor of medieval Jewish exclusion to include all of Jewish history in the Diaspora, arguing that only in their own land, with their own state, could Jews enjoy true autonomy and authority.⁴

Although these simplistic dichotomies have been challenged in recent years, the essential image of the Jewish community as detached from the formative currents that shaped medieval society remains prevalent in both medieval and Jewish studies. The turn towards recognizing the importance of reading Jews into the general narrative of medieval history is clearly a welcome and beneficial revision of the standard “lachrymose” depiction of Jewish victimization. Nonetheless, the character of this community, in particular the relationship between communal autonomy and power, requires greater refinement. It is this task that forms the foundation of the following discussion. I will argue that the medieval charters granted to Jews reflect a relatively high degree of Jewish power while simultaneously demonstrating an equally high level of social and political integration into Christian society. Rather than seek out the function of the Jews for medieval Christian society, it is my goal to use these sources

chapter 29. In addition to these printed sources several of the sections of the important *fuero* of Teruel pertinent to Jews are available *via* the Medieval Sourcebook at <http://www.fordham.edu/halsall/sbook.html>.

⁴ On the medieval period as viewed by the founders of the *Wissenschaft des Judentums* school see Ismar Schorsch, *From Text to Context: the turn to History in Modern Judaism* (Hanover, NH, University Press of New England, 1994), 376–388. For the association of Diaspora (*Galut*) with Jewish powerlessness, see Arnold Eisen, *Galut: Modern Jewish Reflection on Homelessness and Homecoming* (Bloomington, IN: Indiana University Press, 1986); and David Biale, *Power and Powerlessness in Jewish History* (New York, NY: Schocken, 1986).

as a means of understanding the way in which Jews functioned within medieval society. The former expresses an historiographic bias towards the normative nature of Christian society by assigning the Jews the role of marginalized minority, instead of seeking to understand Jews on their own terms. The latter imagines the relationship of medieval Jews to non-Jewish society and its institutions as that of a part to the whole, an approach that offers insight into both the particular (medieval Jewish society) and the general (the Latin West) without making claims concerning marginality and normativity.

The first charters granted to Jews in medieval Europe appear in the ninth century and underscore the Jews' role as agents of economic development. During the early Middle Ages Jewish merchants acted as an important if tenuous link between the Latin West and the older trade routes of the Mediterranean. As medieval lords turned their attention to the economic development of their realms, they began to issue charters to small groups of Jewish traders that eventually became standard delineations of rights and safeguards. One of the earliest such examples that has been preserved is a ninth-century charter granted by Louis I (the Pious) of France to a pair of Jewish merchants, a certain Rabbi Domatus and his nephew Samuel. This charter represents a significant shift in attitude and aims from the one issued by Louis' father, Charlemagne, only a few years prior.⁵ Where Charlemagne's brief list of prohibitions against Jewish economic activity is pervaded by a tone of suspicion concerning the Jews and their motives, Louis' charter is a long and detailed warning against Christian misconduct toward the Jews. The text shows a clear sensitivity to Jewish needs, and its list of protected rights reflects the many obstacles and hazards facing foreigners seeking to extend their trading routes into the Latin West. These include: false legal suits, extraordinary taxes on horses, lodging rights, protection from accusations of damage to Christian property, and exemption from trial by fire and water.⁶ It is noteworthy that the core issues here appear to be derived from social, rather than religious, estrangement. Indeed, these categories represent fairly standard issues of protection required by anyone outside the feudal system of a given region.

Similarly, whether or not the potential dangers listed here are indications of real or hypothetical events; they nonetheless reflect the concerns

⁵ *Patrologiae Cursus Completus*, J.P. Migne, ed. (Paris, 1862) vol. 97, 369–370.

⁶ Bachrach, *Barbarian Europe*, 70–71.

and negotiating power of the charter's recipients. Louis acknowledges that at least some of the topics addressed in his charter were brought to his attention by the Jews themselves, stating: "These same Jews have told our highness about certain men who, contrary to the Christian religion, persuade slaves that are owned by Hebrews to condemn their lords under protection of the Christian religion." In this case, religion functions as a socio-economic category, rather than a theological one. The Jewish merchants feared the loss of their merchandise—in this instance slaves—through conversion. With regard to their own religious rights, Domatus and Samuel are explicitly granted the prerogative to live by Jewish law, and the aforementioned protection against trial by fire, water and whipping is followed by the caveat: "except as it may be permitted to them as they live under and follow their own law."⁷ The associated rights to freedom of religion and judicial autonomy alluded to here would remain important themes in charters to medieval Jews. Perhaps more significantly, these stipulations appear to be the result of specific Jewish requests.

As merchants travelling through lands with little if any permanent Jewish settlements, Jews such as Domatus and his nephew also needed to be able to contract Christian labourers to help them transport their wares. Thus, Louis provided for them to hire Christian workmen, except on Sundays or Christian holidays. Despite their inferior religious status, royal desire for their economic services afforded these Jews a position of (limited) power over some Christians. It appears that these Christians entered into such associations freely and, therefore, that close economic and social relationships between members of the two groups existed even prior to the establishment of large Jewish settlements.

Louis' charter also established the mandate that any legal case brought against the Jews must be tried before three Jewish witnesses together with the clear permission for Jews to bring similar suits against Christians. These principles are relatively early examples of royal efforts to establish a measure of judicial equality in such case, and are important indicators of Jewish status in northern Europe during the high Middle Ages. However, it is equally important to recognize that such privileges are a result of Jewish willingness to avail themselves of seigniorial protection, and their success at negotiating communal rights. It is precisely this ability to effectively

⁷ Bachrach, *Barbarian Europe*, 70–71. For Jews and the slave trade in the early Middle Ages, see Moshe Gil, "The Radhanite Merchants and the Land of Radhan," *Journal of the Economic and Social History of the Orient* 17 (1976), 299–328.

establish strong ties with Christian lords, rather than a passive reception of Christian tolerance, which became such a valued (if at times feared) quality of medieval Jewish leadership.⁸

Furthermore, in contrast with Charlemagne's charter cited above, such language clearly constructs the Jews economically as merchants protected by the crown, rather than religiously as antagonists to the Christian faith. Yet while the king employs the full force of his rank to threaten all those who might harm the Jews, it is noteworthy that he makes no claim to natural sovereignty over them, nor does he list them as possessions of the royal chamber. Indeed, in the document's opening sentence the king declares: "that we have taken under our protection and that we hold under our protection the Hebrews, Rab[b]i Domatus and his nephew Samuel." The formula is repeated in the closing lines of the charter, with the added condition that the Jews will remain under royal protection "as long as they remain our faithful supporters."⁹ The temporary and ad hoc nature of the relationship is that of a lord and foreign visitors. That the lord, in this case the king, does not hold any automatic and perpetual rights of sovereignty over these Jews demonstrates that royal authority over all Jews of a given kingdom had not yet been established. As we shall see, the assertion of royal dominion over all Jews will later become a central and frequently contended feature of Christian Jewish relations.

Itinerant Jewish merchants such as Domatus and Samuel and the small settlements that soon formed in their wake helped to open the way for the establishment and proliferation of larger, more permanent Jewish communities in the burgeoning market towns of the Rhine valley, Romania, Bohemia, and Northern France.¹⁰ As these communities developed and became increasingly integrated into the general fabric of medieval society they became adept at obtaining more extensive rights from their Christian overlords. The charters of the eleventh-thirteenth centuries provide important details regarding the developing needs and concerns of these communities even as they attest to the continued desire of Christian authorities to meet these requests.

⁸ See the discussion of the *episcopus judeorum* and the power of Jewish communal representatives, below.

⁹ Bachrach, *Barbarian Europe*, 70–71.

¹⁰ Michael Toch, "Jewish Migration to, within and from Medieval Germany," in *Le Migrazioni in Europa secc. XIII–XVIII*, ed. S. Cavaciocchi (Florence: Le Monnier, 1994), 639–652. For the Iberian milieu, see below.

In 1084, the bishop of the German town of Speyer, Rudiger Huozmann, granted a settlement charter to the Jews of the neighboring town of Mainz after a fire in that city destroyed their homes. The text treats the Jews as a collective, marking the development of Jewish communal organization in the region since the days of Domatus and Samuel. In the charter itself Huozmann boasted that he had “granted them a legal status more generous than any which the Jewish people have in any city of the German kingdom,” including the assurance to various privileges that became the model for similar grants given throughout northern Europe during the high Middle Ages.¹¹ These included the rights to their own quarter, a cemetery, and the freedom to trade throughout the city. The inclusion of a protective wall surrounding the Jewish quarter as well as the right to perform watch over it against “insolent mobs” can easily be taken as evidence of deep-seated antagonism between Jews and Christians during the period. Yet while such tensions clearly did exist, they were only part of the complex fabric of town life in the eleventh century. The charter’s renewal of the permission to employ Christians, along with the specific right to hire Christian wet-nurses, emphasizes the willingness of both communities to interact at a substantially intimate level. The overall position of the Jewish community as reflected in this charter is that of a highly valued sector of local society actively involved in the town’s economic development and defence.¹²

Another common theme that appears in several versions of the general Rhineland charter is the prohibition against forced baptism of the Jews. Though this policy coincides with the standard ecclesiastical position on forced conversion, its inclusion in these charters represents a response to Jewish fears as much as to those of the Church. One edition of this edict goes on to note that:

If, however, some of them should freely wish to be baptized, they shall be held for three days, in order that it should be entirely ascertained whether they forsake their law on account of the Christian religion or because of some injury done to them; and in leaving the law of their fathers they shall be relinquishing their possessions.¹³

¹¹ The charter has been published in Latin and English by Linder, *Early Middle Ages*, 400-402, and in English by Chazan, *Church, State, and Jew*, 58-59.

¹² Jonathan Elukin, *Living Together Living Apart: Rethinking Jewish-Christian Relations* (Princeton, NJ: Princeton University Press, 2007), 60-61.

¹³ Henry IV’s charter of 1090, published in Linder, *Early Middle Ages*, 393-396. See also Frederick I, *edict in favor of the Jews*, c. 1157, title 7, published in Linder, *Early Middle*

Forfeiture of property would have been a key deterrent to conversion, and such passages stand as a striking example of the growing rift between royal and ecclesiastical concerns with regard to the Jews. A similar trend, and one that also underscores Jewish indifference toward the erection of communal boundaries between the two faiths, can be found in regulations that allow for Jewish employment Christian women as wet-nurses. The caveat “and no bishop or any cleric should oppose it” emphasizes the tension between secular lords and ecclesiastics over Jewish rights.¹⁴

Occasionally, the otherwise abstract and hypothetical structure of these formularies allows a glimpse at historical realia. Several charters of the high Middle Ages repeated the reference to a case in which a Christian was found guilty of killing a certain Jew, Vivus, and the gruesome punishment suffered by the killer.¹⁵ The mention of Vivus by name as well as the harsh justice enacted in the time of the Holy Roman Emperor, Henry III, suggests that he was an intimate of the imperial court. Similarly, the reference to the Jewish petitioners Judah ben Kalonymus, David ben Meshulam and Moses ben Jekuthiel in the prologue to Henry III’s charter helps to corroborate Jewish sources that list members of the Kalonymus family being active in Speyer during the high Middle Ages. Originally from the Italian city of Lucca, the Kalonymide dynasty became one of the most prominent in medieval Franco-German Jewry. Though they are well known in Jewish texts for their scholarly activity as Talmudists and liturgical poets, these charters offer a rare glimpse of members of this important clan in their capacity as communal leaders with ties to Christian authorities.¹⁶

The resonance of the Jewish voice in these charters is particularly intriguing in the “Edict in favor of the Jews” granted by Fredrick I in 1157. The charter’s prologue mentions a certain Solomon who occupied

Ages, 353–355. A classic theological argument against forced baptism can be found in a letter from Pope Gregory I published in J.R. Marcus, *The Jew in the Medieval World* (Cincinnati: Hebrew Union College Press, 1999), 124–125.

¹⁴ Frederick I, *edict in favor of the Jews*, title 9. See also Bishop Rudiger’s charter of 1084, title 8.

¹⁵ His eyes were put out and his right hand cut off. Linder, *Early Middle Ages*, 393.

¹⁶ Linder, *Early Middle Ages*, 391. On the Kalonymides generally see Kenneth R. Stow, “By land or by Sea: The Passage of the Kalonymides to the Rhineland in the Tenth Century,” in *Cross Cultural Convergences in the Crusader Period: Essays Presented to Aryeh Grabois on his Sixty-Fifth Birthday*, ed. Michael Goodich (New York, NY: P. Lang, 1995), 319–334.

the post of “bishop of the Jews” of Worms in the time of Henry IV.¹⁷ Very little is known about this term, but its appearance in several of the Rhineland charters and the mention here of a particular Jew holding this office argue against it being marginal or a mere legal abstraction.¹⁸ Some charters make reference to this figure as the “bishop of the Jews,” or “their bishop,” while others mention the post as the man “who governs the synagogue *for* the bishop” (my italics). The earliest extant passage with reference to this post, found in Bishop Huozmann’s charter of 1084, uses the antiquated Greco-Roman term *archisynagogus* (lit. “head of the synagogue”).¹⁹ Despite such differences, the general context of the passages remains the same throughout these texts. They describe a sort of Jewish magistrate who served as a liaison between the local community and its lord:

Just as a mayor of a city serves among the burghers so too shall the *archisynagogus* adjudicate any quarrel that might arise among them or against them. If he be unable to determine the issue, then the case shall come before the bishop of the city or his chamberlain.²⁰

Six years later, a charter given at Speyer by Henry III expatiated upon this post:

If Jews should have among themselves a lawsuit or a case to be determined, they shall be condemned and judged by their peers and not by others. And if it should happen

¹⁷ Linder, *Early Middle Ages*, 353.

¹⁸ On royally appointed officials and their authority within the medieval Jewish community see Jonathan Ray, “Royal Authority and the Jewish Community: The Crown Rabbi in Medieval Spain and Portugal,” in *Jewish Religious Leadership: Image and Reality*, ed. Jack Wertheimer (New York, NY: Jewish Theological Seminary, 2004), 307-331. The crown-appointed post of *rab de la corte* that developed in late-medieval Castile served a similar appellate role as the *episcopus judeorum* described here. See the prescribed function of this office in the *Takkanot* of Valladolid c. 1432, published in Louis Finkelstein, *Jewish Self-Government in the Middle Ages* (Westport, CT: Greenwood, 1972), 358. See also the case of Jacob of London who was named “presbyter” of England’s Jews c. 1199 in Joseph Jacobs, *The Jews of Angevin England: Documents and Records* (London: D. Nutt, 1893), 202-203.

¹⁹ Here “the synagogue” refers to the Jewish community. On the use of such titles in the ancient world, see Lee Levine, “Synagogue Leadership: The Case of the Archisynagogue,” in *Jews in a Graeco-Roman World*, ed. Martin Goodman (Oxford: Clarendon, 1998), 195-213.

²⁰ The translation is taken from Chazan, *Church, State, and Jew*, 58.

that one of them, a perfidious person, should wish to hide the truth of something done among them, he shall be forced according to their law by the man who governs the synagogue for the bishop to confess the truth on the matter in question. Whenever questions or lawsuits shall arise between them or against them, they shall be referred to the presence of the bishop in order that they should be terminated in his judgement, and their peace, in the meantime, should be assured.²¹

Finally, another version of this now-standard Rhineland charter granted by Frederick Barbarossa in 1157 adds the proclamation: “If they (i.e., the Jews) should be accused of a major case, they shall have delay to go before the emperor, if they wish.”²² As previously noted, we must read these charters with the assumption that they are the results of joint negotiations between Christian lords and Jewish dependents. In theory, these laws appear to strengthen the hand of the Jewish governing council (*kahal*) based on the assumption that this Jewish magistrate would have acted in concert with the officers of the local community. However, the provisions listed in these texts raise a number of intriguing points about the nature of Jewish communal government and its relationship to Christian authority.

The first element that strikes the reader is the evidence of lawlessness within the Jewish community and the subsequent need for an appellate system that transcended the Jewish *kahal*. Though much has been written on the Christian violence against Jews in the Middle Ages, particularly in the Germanic lands governed by these charters, the tensions and conflicts internal to the Jewish community are often overlooked. Indeed, the prevalence of Jewish factionalism and the ability of the very wealthy and well-connected to evade communal regulations were far greater obstacles for the day-to-day governance of the Jewish polity than inter-religious violence.²³ This fact of Jewish political life produces the second salient feature of the description of this Jewish magistrate: the way in which this post helps to integrate the local community into the wider governing structure of the medieval city. Here, Jewish autonomy appears to be less of a permanent and inviolate category than a general governing principle that was often in need of external support. To this end, the codicil found in Frederick’s charter of 1157 offers another insight into the relative autonomy

²¹ The translation is from Linder, *Early Middle Ages*, 395.

²² Linder, *Early Middle Ages*, 358, title 14.

²³ By contrast, outbreaks of anti-Jewish violence were often associated with Christian holidays, and somewhat more predictable. Nirenberg, *Communities of Violence*, chapter 7.

and dependence of Jewish communal government with regard to Christian authority. Ostensibly, this clause allowing for Christian courts to receive certain cases between Jews resolves the Jewish legal problem of how to adjudicate capital crimes, a function that was generally seen to be beyond the scope of Jewish law.²⁴ Again, the use of Christian authorities as a means of punishing Jews demonstrates a degree of Jewish dependence upon the Christian institutions and an interesting symbiotic relationship between the two religious groups.

Furthermore, the phrase “if they wish” alludes to another remarkable feature of this relationship. While solving a problem of legal enforcement for the Jewish authorities, this system simultaneously opened itself up for potential abuses on the part of Jewish litigants. The Jewish *kahal* had helped to create a situation in which members of their community need not see their legal decisions as final, since they could always appeal these judgments to Christian authorities. This option would have been particularly attractive for those Jews wealthy enough to offer Christian judges substantial bribes to overturn the rulings of the Jewish courts.²⁵ Recourse to the political and judicial authorities outside of the Jewish community and the apparent regularity with which its members availed themselves of these offices caution against imagining the Jews as a wholly autonomous group encysted within (or marginal to) medieval Christian cities.

Jewish sources from the era make reference to a similar position of Jewish magistrate or communal chief (Hebrew *parnas*, or *adam hashuv*) among Rhineland communities, but give little information about its function.²⁶ However, the need for a strongman who could bring to heel the various factions and recalcitrant elements within the Jewish community appears to have been relatively common, and is echoed by a Jewish

²⁴ On capital crimes in medieval Jewish law, see Ray, “Royal Authority,” 316–322.

²⁵ Yom Tov Assis, “The Jews of Spain in Gentile Courts (XIIIth–XIVth Centuries),” in *Culture and Society in Medieval Jewish History*, ed. M. Ben Sasson, R. Bonfil and Y. Hacker (Jerusalem: Zalman Shazar Center, 1989), 399–430 (in Hebrew); and Yom Tov Assis, “Jewish Attitudes to Christian Power in Medieval Spain,” *Sefarad* 52 (1992), 291–304.

²⁶ *Teshuvot Geonei Mizrah u-Ma’arav*, ed. Joel Müller (Jerusalem, 1966 [1888]), no. 142. As with the Latin terms *episcopus* and *archisynagogus*, the Hebrew *parnas* is used in other contexts for which the meaning is clearly different. Early Iberian texts mention an analogous post referred to by the Talmudic title of *adam hashuv*, though the line here between medieval political reality and Talmudic exegesis is quite blurred. See the discussion in Ephraim Kanarfogel “Unanimity, Majority and Communal Government in Ashkenaz during the High Middle Ages: a Reassessment,” *Proceedings of the American Academy for Jewish Research* 58 (1992), 79–106.

formulary from Muslim Spain.²⁷ These passages referring to the *episcopus judeorum* help to shed light on the legal structure of the Jewish community and the degree to which it was integrated into the larger judicial and political framework of medieval society. The right to legal autonomy, that the Jews be allowed to govern themselves by their own law, continued to be a central goal of Jewish communal leaders throughout medieval Europe. Yet as adumbrated by the charter of Louis the Pious, this autonomy was rarely complete. The sheer presence of the episcopal and royal courts and the willingness of Jews to avail themselves of their authority either as a first resort or as a court of appeal prevented the Jewish legal system from existing in a vacuum. These brief references to a relatively standard office of Jewish headman offer a provocative glimpse at the way in which Christian and Jewish authorities, each for their own reasons, helped to incorporate the Jewish community into the broader legal systems of medieval Europe.

The details pertaining to Jewish settlement in the Iberian Peninsula were fundamentally different those that prevailed in northern Europe (Hebrew *Ashkenaz*). The Jewish communities of this region were not only among the largest, wealthiest, and most intellectually prolific in medieval Europe, but also among the oldest. Yet while the roots of these Jewish centres date back to the Roman period, if not earlier, the re-establishment of many Jewish communities under medieval Christian rule over the course of the high Middle Ages offers a useful parallel to the formative period of Ashkenazi Jewry. It was during the central phase of the so-called *reconquista* (ca. 1085–ca. 1260) that the accelerated pace of Christian expansion prompted a succession of municipal and communal charters aimed at facilitating settlement and civic development in these new territories. The municipal charter, or “*fuero*,” which served as the recognized set of customs and laws for a given locale, became one of the administrative hallmarks of Christian expansion in medieval Iberia.²⁸

While Iberian *fueros* have long been recognized as important sources for institutional history, their value to the understanding of the medieval

²⁷ Aaron Schreiber, *Jewish Law and Decision Making* (Philadelphia, PA: Temple University Press, 1979), 298. This document also echoes the concern over the Jewish leader’s potential susceptibility to bribes found in the Speyer charter.

²⁸ Though typically granted by the crown these charters were often a combination of local traditions and broader Roman or Visigothic legislation. For a general survey of *fueros* with references to Jews, see Fernando Suárez Bilbao, *El fuero judiego en la España cristiana, las fuentes jurídicas siglos V–XV* (Madrid: Dykinson, 2000).

Jewish community has yet to be fully explored. As was the case in northern Europe, the sections of these *fueros* pertaining to the Jews generally aimed to attract and maintain Jewish settlement through the protection of Jewish rights. In the Iberian context, these laws are contained within general municipal charters as well as those granted separately to the Jewish community of a given locale.²⁹

One of the most important themes that run throughout these charters is the concept that all Jews belonged to the crown as chamber serfs. By the time Iberian municipal *fueros* began to proliferate (ca. twelfth century), the notion that all Jews were naturally the protected property of the king had become a governing maxim throughout Europe.³⁰ As we have seen, however, this important feature of Jewish status was less a continuation of a longstanding policy (as many royal charters claimed) than a relatively new effect of the gradual consolidation of royal power during the high Middle Ages. As such, the phenomenon of Jewish serfdom that appears in these texts as a *fait accompli* should be read as an ongoing process of asserting authority and seeking privileges. In reading these charters we should bear in mind that these bonds were continually open to negotiation (within limits) by the king, other barons, the burgeoning municipal councils, and also the Jews themselves.³¹

The attempts of Iberian monarchs to establish sovereignty over the Jews of their realms are illustrated by laws regarding the *caloña* (bloodwit), or fine owed for killing a man. While such fines were normally paid to the relatives of the victim, the Jewish *caloña* was received by the crown. This concept was first made explicit in the *fuero* of Baeza which states: “And it

²⁹ There was also a significant difference between charters granted to the more established communities in northern Iberia and those Jewish settlements that were newly established (or wholly regenerated) along the southern frontier. See Jonathan Ray, *The Sephardic Frontier: The Reconquista and the Jewish Community in Medieval Iberia* (Ithaca, NY: Cornell University Press, 2006), 15–54.

³⁰ See above, n. 1. The concept was promoted in Iberian charters as early as 1176, when the *fuero* of Teruel noted: “The Jews are serfs of the king, and are always counted as part of the royal treasury.” *El Fuero de Teruel*, ed. Max Gorosch (Stockholm: Almqvist and Wiksell, 1950), title 568.

³¹ On the extension of royal power in this era see Jean-Pierre Poly and Eric Bournazel, *The Feudal Transformation: 900–1200* (New York, NY: Holecma & Meier, 1991): 194–216; Donald Kagay, “Royal Power in an Urban Setting: James I and the Towns of the Crown of Aragon,” *Mediaevistik* 8 (1995), 161–169; and Robert MacDonald, “Law and Politics: Alfonso’s Program of Political Reform,” in *The Worlds of Alfonso the Learned and James the Conqueror*, ed. R.I. Burns (Princeton, NJ: Princeton University Press, 1985), 150–199.

is a known thing that the Jew has no part in his *caloña*, since Jews are serfs of the king and given to his treasury.”³² The amounts legislated for the Jewish *caloña* are seen by some historians to represent a high level of status for Iberian Jewry. The *fuero* of Alcala de Henares lists the penalty for a Jew who kills a Christian to be equal to that of a Christian who kills a Jew—108 *maravedies*—and that of Baeza sets the penalty for the murder of a Jew as high as that of a noble. Yet the apparently elevated status given here can be misleading. Such cases are most likely a reflection of the value of Jews to the Crown as human property, rather than any social rank. This is further supported by the fact that, at Baeza, the *fuero* includes conditions for the Christian to avoid penalty, but not the Jew. Similarly, royal sovereignty over the Jews was usually extended to include their property, and several Aragonese charters contain clauses specifically prohibiting Jews from selling their land to Christians without royal consent.

Recognition of royal claims to sovereignty over the Jews did not preclude them from developing political and economic ties to a variety of other magnates. The *fueros* that do not specifically prohibit Jews from paying tribute to their local municipalities open the door to that option, and to the further integration of the Jews into town life. In other cases, such as at the Leonese towns of Ledesma and Salamanca, the *fueros* mention the crown formally entrusting the town council with jurisdiction over the Jews. Elsewhere, Iberian monarchs granted jurisdiction over the Jews and rights to their taxes to ecclesiastics, secular lords, and municipal councils. Thus, as with all other members of medieval society, Jews were involved in the tangled web of overlapping jurisdictions between a variety of different lords, and deftly negotiated bonds of jurisdiction and protection as best fit their needs.³³

One of the principal benefits of royal control was royal protection. Physical protection of the Jews also meant that the monarchy maintained

³² *El Fuero de Baeza*, ed. Jean Roudil (The Hague: Van Goor Zonen, 1962), title 669. An example of a king receiving the *caloña* for one of “his” Jews can be seen in a document from Toledo c. 1194. It makes reference to a certain Christian lord who was required to compensate the king with houses and a store after killed a Jewish official. Pilar León Tello, *Judíos de Toledo*, 2 vols. (Madrid: Arias Montano, 1979), vol. 2, no. 47.

³³ *Los fueros Leoneses de Zamora, Salamanca, Ledesma, y Alba de Tormes*, ed. Américo Castro and Federico de Onís (Madrid, 1916), titles 399 and 331. A similar situation is reflected in the *fuero* of the Aragonese town of Albarracín, where the lord of the city was to receive the Jewish *caloña* due to his position as lord of the Jews there. Suárez Bilbao, *El fuero judiego*, 62, n. 119.

ultimate control over the conviction and execution of Jews for capital crimes. Thus, Alfonso X's legal code *Las Siete Partidas* preserves the law that, while the Jews may be put to death for crimes ranging from proselytizing among Christians to disparaging Christianity, only the king had the right to carry out this sentence. Similarly, some local charters such as that of the Portuguese town of Beja stated that any Jew attacking or injuring a Christian was to be put to death, but only by the crown.³⁴ More commonly, royal protection manifested itself in the safeguarding of Jewish economic interests, which often meant the enforcement of Christian payment of debts to Jews.³⁵ Finally, even in the somewhat standard area of royal protection, it is sometimes possible to recover a sense of Jewish participation in the development of these *fueros*. One of the earliest versions of the general charter to the city of Valencia forbids Christian tribunals from seizing or trying Jews on their Sabbath or festival days. If a Jew is already in Christian custody, he must be permitted to return home from noon on Friday through the following Monday with the deposit of a bond. Unlike the more common statements of royal protection of the Jews that offered benefits for both king and clients, such stipulations clearly indicate the concerns of the local Jewish community more than that of the crown.

Beyond the laws concerning the Jews as royal property, the primary focus of these charters regarding the Jews is the regulation of their relationship with Christians and the principal point of contact in this relationship, Jewish money lending. Despite their prescriptive nature, these *fueros* do have the effect of establishing the norm or expected paradigm for the way in which Jews and Christians are to interact. As was the case in the early-medieval charter of Louis the Pious, the Iberian municipal *fueros* established judicial equality as the governing principle for legal disputes between Christians and Jews. That is not to say that these charters erased social and religious distinctions between medieval Jews and their Christian neighbors. On the contrary, religious affiliation and identity still mattered a great deal, and both Christian and Jewish leaders sought to maintain physical, social and ideological boundaries between their

³⁴ "...and this justice should be done by the king." *Foros de Beja* in *Collecção de livros inéditos de historia Portugueza*, vol. 5, ed. José Francisco Corriea da Serra (Lisbon: Academia Real de Sciencias, 1824), 506. For the *Partidas*, see *Las Siete Partidas del rey don Alfonso el Sabio* (Madrid: Real Academia de Historia, 1807), 7. 24. 1–8.

³⁵ For the relationship between Christian debts and Jewish taxes to the crown, see Ray, *Sephardic Frontier*, chap. 3.

communities. Rather, these regulations underscore this reality, while at the same time creating a vehicle for the integration of Jewish polity into economic and political life of Iberian towns.³⁶

An example of the sort of safeguards meant to protect and foster Jewish participation in the municipal economy is the influential *fuero* that Alfonso II of Aragon granted to the city of Teruel in 1176:

We order that if a Christian and a Jew shall come to court over some matter, they shall appoint two citizens as judges, of whom one should be a Christian and the other a Jew, as the law orders. And if it should happen that their judgment does not please either of the two disputants, it shall be appealed to four judges who are citizens of Teruel, of whom two shall be Christians and the other two shall be Jews, and the case shall finish with those four judges, according to the law. Whoever shall appeal [the ruling of] these four judges should know that he will lose the case, as the law states. These judges shall examine and shall judge them only in accord with that which the *Fuero* orders in Teruel.

The witnesses between a Christian and a Jew shall be a Christian and a Jewish citizen (of Teruel), and anything that may be denied shall be believed and confirmed on the basis of their testimony.

When the Christians want to have lawsuits, and the Jews likewise, they shall have them according to the law of Teruel, except for on the Sabbath and their festivals, according to the law.³⁷

The requirement that an equal number of witnesses be drawn from each group, the preservation of equal rights of appeal, and the protection against Jews having to appear in court on the Sabbath and Jewish festivals all demonstrate royal responsiveness to Jewish concerns.

Archival and rabbinic sources confirm the level of importance attained by these municipal charters within the local Jewish community itself. For Moses ben Nahman (Nahmanides), one of the leading rabbinic authorities in medieval Iberia, the *fueros* fell within the Talmudic legal category of *dina de malkhulta dina*, or “the law of the land is law.” He noted:

³⁶ Viewing charters as a tool to aid in the normalization of the Jewish community within the broader construct of the medieval city opens up interesting avenues of comparison to other social entities, such as monasteries and royal courts, which existed self consciously within and beyond the society of a given locale.

³⁷ *El Fuero de Teruel*. The above is a composite of titles 539, 540, 561 and 562. See also David Abulafia, “‘Nam iudei servi regis sunt, et semper fisico regio deputati,’ the Jews in the Municipal ‘Fuero’ of Teruel (1176–1177)”, in *Jews, Muslims and Christians in and around the Crown of Aragon*, ed. Harvey J. Hames (Leiden: Brill, 2004), 97–123.

It appears to me that when we say that ‘the law of the land is the law,’ we are referring to the royal legislation accepted throughout the entire realm which the king and all those kings who came before him have enacted, and which are written in the chronicles and statutes of the kings.³⁸

Nahmanides’ pupil, Solomon ibn Adret, reinforced the importance of royal legislation as a mainstay of Jewish legal procedure. Comparing Iberian kings to the kings of Israel ibn Adret argued that those Christian kings who enact laws to defend the Jews and their rights are the true meaning of the legal concept of “the law of the land is law.”³⁹ Rabbinic respect for such statutes was shared by average Jews who often invoked the rights and privileges guaranteed to them by the crown to protest legal abuses. In one such instance, a Jew from Córdoba referred to the rights of Jews contained in the *fuero* of that city during a court case with a Christian, pointing out that the charter guaranteed the Jews’ the right to have Jewish witnesses present during any suit brought against them.⁴⁰ The importance that Jews invested in their town’s *fuero* is also illustrated by a case in which the Jewish community of Valencia petitioned to have the local charter altered in its favor. Though Jews did not always win such appeals to the crown, their efforts nonetheless indicate that they viewed these municipal charters as valid sets of laws that had a critical impact on their lives.⁴¹ Unlike Jewish recognition of royal authority, a characteristic that was bound up with the respect for monarchy internal to the Jewish religious tradition, the active and pragmatic usage of the general charters granted to their towns is an important indicator of Jewish political, social and economic integration into medieval urban life.⁴²

³⁸ Found in Solomon ben Abraham ibn Adret, *Responsa*, (Leghorn, 1825), no. 198. On the general subject see Shmuel Shilo, *Dina de-Malkhuta dina*, (Jerusalem: Jerusalem Academic Press, 1974); and Shalom Albeck, “‘Dina de malkhuta dina’ bi-kehilot sefarad,” in *Abraham Weiss Jubilee Volume* (New York, NY: Yeshiva University, 1964), 109–125.

³⁹ Adret, *Responsa* (Leghorn, 1657), no. 134.

⁴⁰ Archivo Histórico de la Provincia de Córdoba, Carp. 31, no. 1.

⁴¹ Archivo de la Corona de Aragón, reg. 46, fols. 152v–153. For a similar example of Jews invoking the charter of their city, see Archivo de la Corona de Aragón, reg. 57, fol. 222v.

⁴² The actual Jewish use of Christian charters must be distinguished from the highly theoretical debates regarding monarchic authority and the validity of various political institutions that occupied leading Jewish intellectuals in the Middle Ages. On this topic, see Gerald Blidstein, “On Political Structures—Four Medieval Comments,” *Jewish Journal of Sociology* 22 (1980), 47–58.

As the Spanish kingdoms developed over the course of the high Middle Ages, it was municipal citizenship, not religion, which became the distinguishing factor concerning the attainment of rights. To this end, the Iberian kings of this era generally sought to ignore the more discriminatory elements of the old Visigothic legislation regarding the Jews, choosing instead to promote the idea of legal equality among all citizens. The precedent was set by Alfonso VI of Castile when he gave the *fuero* of Miranda del Ebro to the entire populace of the town: “great men, or peasants, or Moors, or Jews.” Royal interest in establishing legal equality among members of all three religions was furthered in the twelfth-century *fueros* granted to Cuenca and Teruel, which served as models for a host of later charters.⁴³ The Castilian notion of the town as a place in which all are free to come and enjoy security would continue to characterize royal attitudes in all the Iberian kingdoms throughout the Middle Ages. Protection of minority rights, though often challenged by various sectors of society, remained the overriding policy throughout Christian Iberia until 1492. Indeed, laws that might be seen as disadvantageous to Jews are few and far between in these texts. As in the case of the earlier Merovingian charters cited above, Iberian charters routinely ignored the ancient prohibition against Jews holding positions of authority over Christians. This legal curtailment of Jewish social rank and economic growth originated in Roman imperial legislation, and had been preserved in both Visigothic and canon law. It was adopted in several Iberian charters and reasserted in the 4th Lateran Council of 1215.⁴⁴ Nonetheless, a succession of Iberian authorities including kings, bishops, and masters of the various crusading orders throughout this period openly contravened this legislation, allow-

⁴³ In it, Alfonso VIII sums up this view of equality: “I likewise grant to all settlers this prerogative: whoever may come to live in Cuenca, whatever condition he may be, whether Christian, Moor, or Jew, free or servile, should come in safety. He need not answer to anyone by reason of enmity, debt, bond, inheritance, *mayordomia*, *merindadico*, or any other thing he may have done before the conquest of Cuenca.” *Fuero de Cuenca*, chapter 1, title 10.

⁴⁴ For the original law prohibiting Jews from serving in the Roman imperial administration see Amnon Linder, *The Jews in Roman Imperial Legislation* (Detroit, MI: Wayne State University Press, 1987), 323–326. The prohibition was reinstated for Toledo by Alfonso VII in 1118 based on the Visigothic *Liber Iudiciorum*, XII. 2. 14. *Colección de fueros municipales y cartas pueblas de las [sic] reinos de Castilla, León, Corona de Aragon y Navarra*, ed. Tomás Muñoz y Romero (Madrid: J.M. Alonso, 1847), 364–66. For the IVth Lateran Council, see canon no. 68, published in Latin and English in *The Church and the Jews in the XIIIth Century*, ed. Solomon Grayzel (New York, NY: Jewish Theological Seminary, 1933), 308–309.

ing Jews to hold positions as tax collectors or other officials that afforded them power over Christians.⁴⁵

The charters of medieval Iberia thus present very few legal restrictions aimed at Jews, and it seems that little attention was paid to enforcing their subjugation or lowering their status. In this respect, the general thrust of the treatment of Jews in the *fueros* differed significantly from the contemporary ecclesiastical legislation regarding the Jews, and those prohibitions and regulations that would emerge from the parliamentary sessions known as the *cortes* of the thirteenth and fourteenth centuries.⁴⁶ The true aim of these charters seems to be the equal treatment of all citizens of a given municipality, along with the preservation of the social boundaries between the three religions. It is not subjugation, but separation, which is the underlying premise here, a factor that was as much a concern for Jews as for Christians.⁴⁷

First and foremost among the laws that sought to reinforce social boundaries in Iberian society were those aimed at preventing sexual intercourse between members of different religious communities. For cases in which Jewish men were convicted of having intercourse with Christian women, most *fueros* ordered that both were to be put to death, often by being burned alive.⁴⁸ The possibility for inter-religious relations certainly did exist, especially in newly conquered territories where the Christians made up a minority, and where their population was mostly comprised of male soldiers. Such social configurations increased the possibility of Christian intercourse with minority women (both Muslim and Jewish), relationships that are not expressly forbidden in most charters and legal codes. Indeed, while the principal concern here does seem to be the separation of religious communities, it must be noted that the *fueros* typically limit themselves to liaisons between Christian women and minority men. Intercourse between Jewish women from Christian men was not a major

⁴⁵ See Yom Tov Assis, *The Golden Age of Aragonese Jewry* (Portland, OR: Vallentine Mitchell, 1997), 3; and Roth, "Civic Status", 139-161.

⁴⁶ Pilar León Tello, "Legislación sobre judíos en las cortes de los antiguos reinos de León y Castilla," in *Proceedings of the World Congress of Jewish Studies*, vol. 4 (Jerusalem, 1968), 55-63; and José María Monsalvo Antón, "Cortes de Castilla y León y minorías," in *Las Cortes de Castilla y León en la edad media*, 2 vols. (Valladolid: Talleres de Simancas, 1988), vol. 2, 146-191.

⁴⁷ Jonathan Ray, "Beyond Tolerance and Persecution: Reassessing our Approach to Medieval Convivencia," *Jewish Social Studies* 11 (2005), 1-18.

⁴⁸ For a broader discussion of this topic see Ray, *Sephardic Frontier*, 165-175.

concern of Christian legislators. Furthermore, considering the longstanding Christian tradition of seeing Jews as not only inferior but also as unclean, untrustworthy, and sexually predatory, the sections of these charters regarding sexual intercourse with Jews are remarkably free of calumny or prejudice. While seeking to maintain sexual boundaries between the two communities, they are careful not to make Jews easy targets for false accusations.⁴⁹

A similar attempt at social separation can be seen in the laws regulating foods, the most common of which was the prohibition for Jews to purchase fish on Fridays. Some *fueros* also contain prohibitions against Christians selling meat rejected by Jewish butchers, a ban meant to preserve Christian honour more than anything else. The theory here is that food that is unfit for Jews (even if only on grounds of Jewish ritual purity) should not then be consumed by Christians. For many Christians, however, such concerns were secondary to the interest in obtaining affordable meat. Similarly, the laws concerning Jewish purchase of fish on Fridays also included a fine for any Christian who would make the purchase on behalf of their Jewish neighbors. These laws seem to portray a society in which the desire to maintain social, sexual and religious boundaries contrasts sharply with the willingness of average citizens to traverse those boundaries when it suited their purpose. Other regulations regarding the mixing of Jewish and Christian meat seem to have as their principal goal the temporary separation of Jews and Christians as a precaution against possible violence. Along with its law forbidding Christian butchers to sell Jewish meat, the *fuero* of Salamanca also prohibits Christians from slaughtering meat for Jews during the Lent. Likewise, the *fuero* of Sepúlveda states that no Jew is to sell meat to Christians for three days prior and three days after Easter, Christmas, and Pentecost.⁵⁰

⁴⁹ This cautious approach can be seen in the charter given to the Castello-Bom, Portugal. The charter requires three witnesses for such an accusation to be believed, one of which must be a Jew: “Alcaldes who apprehend a Jew with a Christian woman are to settle the case with two Christians and one Jew [as witnesses] or two Jews and one Christian.” *Portugaliae monumenta histórica a saeculo octavo post Christum usque ad quintumdecimum*, vol. 3, eds Alexandre Herculano and J.S. Mendes Leal (Lisbon: Typis Academicis, 1888), 760.

⁵⁰ *Fuero* of Salamanca, title 346, in *Los fueros Leoneses de Zamora, Salamanca, Ledesma, y Alba de Tormes; Fuero de Sepúlveda*, titles 143 and 228, in *Los fueros de Sepúlveda*, ed. Emilio Sáez (Segovia, 1953).

Taken together, these regulations depict a world in which Jews were fully integrated into the social and economic structures and spaces of Christian towns in which they lived. This proximity engendered both close personal bonds and inter-faith tensions and violence. A point that is often overlooked by scholars seeking to locate the decline in medieval Jewish status is that the legal reinforcement of social boundaries was every bit as much a goal of Jewish moralists and communal leaders as it was of the Church. It is therefore incorrect to read such attempts to maintain a measure of separation between the communities as an attack on Jewish status. If anything, it alludes to the dissonance between the communal leadership and the masses of both communities.

In addition to the legislation with reference to Jews contained within town charters, there were also instances of *fueros* and privileges written directly to Jewish communities. The Jewish *fueros* mark the emergence of a Jewish voice in Iberian municipal legislation, allowing us to get a better idea of the concerns and functional power of these communities. We can see whole Jewish societies slowly emerging from the relative anonymity of the municipal *fuero*. No longer are they an abstract or hypothetical entity within the municipality, but specific communities.

Two of the most interesting examples of such *fueros* are those granted to the Jews of Tortosa and Tudela. In the *fuero* of Tortosa (c. 1149) Jews are given their own quarter of the city along with control over its protective wall, towers and gates. They are granted rights to this quarter in order to “remain there safe and sound with all [their] goods and possessions for all times.” Such grants were not an example of impending ghettoization, but rather a highly valued privilege of defense that brought with it a measure of status. While it makes sense that the crown would be interested in protecting a group that it prized as its royal treasure, the grant of physical control over their own quarter appears to be the result of Jewish petitioners rather than royal zeal.⁵¹

But the *fuero* of Tortosa is even more explicit on this matter. In it, Count Ramón Berenguer IV declares that: “If more Jews come to settle, I shall give them homes to occupy and to settle.” Once again we see signs of the Jewish community’s concern that their allotted space, while sufficient for their current needs, might become over-crowded in the future. The absence of such clauses in most *fueros* underscores the particular foresight of Tortosa’s Jewish negotiators. Another passage that signals Jewish

⁵¹ The translation is taken from Chazan, *Church, State, and Jew*, 69-70.

rather than royal concern states that: "No Saracen shall exercise over you any authority or command." Unlike most Iberian cities, Tortosa retained a sizable Muslim population after its conquest, and this law addresses the question of Jewish status in relation to their former rulers.⁵²

Another illuminating series of Jewish charters are those of Tudela, the first of which was granted following Christian conquest in 1115. Here, its recipients were "all those who had left [Tudela]" during the siege. When the city's Jews were relocated to a fortified neighbourhood in 1170 they were granted another *fuero* in which the corporate language is notably stronger, making reference throughout to the Community of the Jews.⁵³ While this echoes the general tendency to treat municipalities and other such groups as unified entities, it also reflects a similar development of the Jewish governing council. As at Tortosa, the Jewish community was given control over the Jewish quarter and corporate ownership of all property within it. The charter also makes a formal grant of a Jewish cemetery, perhaps one of the clearest reflections of Jewish, rather than royal, interest. The stipulations made in the fourth title of this later charter are particularly interesting. It states:

If certain men attack you violently in that fortress and it shall happen that these men be wounded or killed, on that account the Jews shall not pay for homicide nor receive punishment by fine, whether the incident be by day or night.⁵⁴

Here, Christian townsmen were put on notice: not only would Jews be legally allowed to defend themselves, they would also be granted unprecedented latitude in their response to such attacks. The addition of this clause in the later version of the charter may indicate increased tensions between Christians and Jews in Tudela. It almost certainly indicates the concerns and influence of the city's Jewish representatives.

As with the majority of municipal *fueros* the one granted to the Jews of Tudela establishes judicial equality between Jews and their Christian and Muslim neighbors, stating that in all cases involving Jews a Jewish witness must be present. In between the two sections that delineate this rather

⁵² Chazan, *Church, State, and Jew*, 70-71. See also Cynthia Maya, "Jew and Muslim in Post-Conquest Tortosa," *Al-Masaq* 10 (1998), 15-25.

⁵³ See Yitzhak Baer, *Die Juden im christlichen Spanien*, vol. 1 (Berlin: Akademie-Verlag, 1936), nos. 578-579, and the English translation in Chazan, *Church, State, and Jew*, 72-73.

⁵⁴ Chazan, *Church, State, and Jew*, 72-73.

common structure there exists a rather unusual law that is far more illuminating. It states that: "A *Jewish* court may not mete out punishment to Jews except through two Jewish witnesses" [my emphasis]. The inclusion of this proviso is striking since medieval Christian charters showed almost no interest in the internal organization or function of Jewish communal governments. The inclusion of this passage is thus particularly noteworthy, and points to an important facet of medieval Jewish life that is almost universally overlooked by medieval historians whose interest in the Jewish community rarely exceeds its relations with Christians. The issue here is the highly combative relationship between the *kahal* and the community it represented. As with their northern European counterparts, Iberian Jewish communities were plagued by factionalism and internal strife throughout the Middle Ages. The prohibition against judges meting out punishment without proper witnesses is a foundational principal of Jewish law, and one that should not have to be made explicit, least of all in a Christian charter. Its insertion in a here is an extraordinary caveat against judicial misconduct on the part of Jewish officials. Since there was no reason for the *kahal* itself to have sought such formal admonition and limitation of its powers, its inclusion in this charter appears to represent the influence of powerful individuals or factions close to the crown. These might include moralists concerned with the political abuses of the Jewish oligarchy, or courtiers who, though members of that oligarchy, feared the power and potential retribution of rival families. The move to a more centralized and institutionalized Jewish communal structure took place under the close supervision of a variety of interested parties.

The charters given in the early and high Middle Ages formed the basis for Jewish rights and privileges that would prevail up until the time of their expulsion from a given territory. In Spain, for instance, the crown continued to promote Jewish rights to free and unmolested travel at all times (including Sundays and Christian holidays) until their expulsion at the close of the fifteenth century.⁵⁵ As with so many earlier charters, such royal protection came in response to Jewish complaints of abuses at the hands of local officials, both secular and ecclesiastic. This responsiveness of the highest central authority in a given region to the needs the Jewish

⁵⁵ See the letter of Ferdinand and Isabella to all officials in Castile reaffirming Jews to travel freely on Sundays and Christian holidays c. 1482 published in Luis Suárez Fernández, *Documentos acerca de la expulsión de los Judíos* (Valladolid: Consejo Superior de Investigaciones Científicas, 1964), 261-263.

community stood as the basic paradigm of Jewish-Christian legal interaction throughout the Middle Ages. While policies of individual rulers could vary depending on the needs of the moment, such instances were the exceptions that proved the rule.⁵⁶ Perhaps more important, at least from the point of view of Jewish history, is the indication that Jewish communal leaders and legal authorities maintained their faith in the effectiveness and immutability of the rights granted in these royal charters. That Jews played an active role in the production of these charters is significant for two reasons. First, it transforms the longstanding and often static debate over Jewish status by highlighting the active role played by the Jews in the shaping the parameters of their own rights. Secondly, it suggests that these charters, and the legal system within which they operated, also had a reciprocal effect on the development Jewish legal theory.⁵⁷

It has been my assertion that analysis of medieval charters highlights some important themes regarding the history of medieval Jewry. First, these charters were marked by royal and baronial desire to enact sufficient safeguards for the Jews to attract them as settlers and to promote their economic activity. Later charters came to demonstrate royal interest in the protection of the Jews as serfs of the royal chamber, as well as the royal, ecclesiastical and rabbinic concern for the enforcement of the social boundaries that separated them from Christians. Moreover, the royal and municipal legislation that prevailed throughout Europe established the concept of equality under the law in civil cases, and assumed a society where Christians and Jews (and in Iberia, Muslims) belonged to sovereign groups that continually interacted with each other, and thus needed laws to oversee this interaction. In Iberia, this attitude towards the legal relationship between the different religious communities would remain the basis upon which local and regional charters were established during successive centuries.

⁵⁶ Sophie Menache discusses the general tradition of protecting Jewish rights and the motivations behind decisions to end this policy in “The King, the Church and the Jews: Some Considerations on the Expulsions from England and France,” *Medieval History* 13 (1987), 223–250.

⁵⁷ The way in which Jewish legal ideology was shaped by the medieval Christian milieu merits further study. See Ivan Marcus, “The Dynamics of Jewish Renaissance and Renewal in the Twelfth Century,” in *Jews and Christians in Twelfth-Century Europe*, ed. Michael Signer and John Van Engen (Notre Dame, IN: University of Notre Dame Press, 2001), 27–45.

One of the principal benefits of the use of Christian charters as a source for Jewish history is their ability to demonstrate the degree to which medieval Jews were integrated into the social, economic and political life of the medieval town as well as the broader administrative structures of the territories in which they lived. In so doing, they offer a less tendentious view of Jews and Jewish society than religious or literary sources. Whatever popular animosity Christians may have harboured toward the Jews, royal legislation tended not to refuse them any rights on the basis of their religion. For their part, the Jews themselves seemed to view the regulations found in these charters as guarantees of their rights rather than as restrictions, and they did not hesitate to invoke them during legal cases involving Christians.

In the introduction I mentioned that an underlying motivation for this article was to demonstrate how these charters might be used to integrate the Jews into discussions of medieval law and society. It is my hope that a close-reading of these texts with an eye to the needs and desires of the Jews themselves will lead to a fuller and more nuanced portrait of Jewish life in medieval Europe. For the student of Jewish history, Christian charters provide valuable information regarding a period in which details about Jewish life are often scarce. To those studying the broader medieval world, these texts offer a vehicle for the recovery of Jewish attitudes and the effectiveness with which medieval Jews were able to shape their relationship to the larger society in which they lived. I suggest that, rather than view the Jews of medieval Europe as beleaguered outsiders, it is more useful to approach them as a complex community operating within the same system of shifting political, legal and social networks as other medieval groups. Indeed, they did so with great confidence, political savvy and with a high degree of success.

Copyright of Medieval Encounters is the property of Brill Academic Publishers and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.